DUI Courts: Why, How, and Looking Forward

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This research paper, analysis, findings and recommendations are the sole thoughts of the author in her personal capacity. Opinions within this paper are not a reflection of the view of Des Moines Municipal Court, Washington State Administrative Office of the Courts, or any other organization related to the administration of DUI Courts in Washington State.

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Abstract

Driving under the influence (DUI) is a prevalent issue throughout the United States and Washington State. Many states have looked for solutions to prevent impaired driving. A popular strategy is DUI courts. Over 300 DUI courts are in action throughout the country. In Washington State, there are currently nine DUI courts operating in district and municipal courts. The DUI court model follows *The Ten Guiding Principles of DWI Courts"* (NCDC, n.d.). While there is a model to follow, each jurisdiction is unique due to laws, procedures and resources available. The research into state specific program standards and performance measures assists current and future DUI courts in the implementation of the model, maintains program consistency within the state, and provides possible solutions to barriers courts are facing. Three key questions are the focus of this paper: 1) How are DUI Court program standards utilized in courts throughout the United States and Washington State? 2) What weaknesses are paramount in Washington State DUI courts program standards and performance measurements? 3) How could universal program standards and performance measures support the current and future DUI courts in Washington? Using a statewide survey, interviews, and written follow-up questions officials from Washington DUI court programs shared their current operation standards, performance measures, and perceptions of program success and weaknesses. Findings show that programs in Washington utilize the DWI court model and value their successes. However, these courts are not consistent in their operational practices, such as how they screen potential participants, who they admit into their programs, phase and program structure, or how they measure performance. This paper concludes that there is an advantage to having uniform program standards and performance measures for the DUI courts in operation within Washington State.

Introduction

One can argue that driving under the influence (DUI)[1] is intentional, preventable, and unnecessary—however the number of DUI arrests and fatalities is not slowing (National Center for Statistics and Analysis, 2022, p.1). Nationally in 2022, arrests for DUI exceeded over 650,000 according to the Federal Bureau of Investigation (FBI) Uniform Crime Reporting Program. The number of repeat DUI Offenders who continue to abuse alcohol and other substances while driving poses an on-going public safety challenge, especially given the high volume of traffic moving through our cities (Warren & Elek, 2018, p.1). Arrests more often than not end in some type of adjudication in the courts (Warren & Elek, 2018, p. 2). With numbers, this staggering it is necessary to have solutions to prevent recidivism and treat those with substance use or co-occurring disorders. Some of the strategies to address impaired driving include sobriety checkpoints, ignition interlock devices, legislative changes reducing legally allowed blood alcohol concentration levels, and adjudication-based efforts such as deferred prosecutions, diversion programs, and DUI courts (WTSC, 2019, p. 51-55). However, this paper argues that with such efforts there is a need to have procedures, standards and ways to measure performance.

This paper will examine DUI courts throughout the United States and pay specific attention to Washington State. It will answer these research questions: 1) How are DUI Court program standards utilized in courts throughout the United States and Washington State? 2) What weaknesses are paramount in Washington State DUI courts program standards and

[1] The offense names: DUI (driving under the influence), DWI (driving while intoxicated/impaired), OWI (operating while intoxicated/impaired), and OVI (operating a vehicle under the influence/while intoxicated) are used interchangeably throughout the United States (Mollenkamp, 2024).

performance measurements? 3) How could universal program standards and performance measures support the current and future DUI courts in Washington?

Additionally, when contemplating the implementation of standards and measurements, it is critical to have a solid footing of their purposes. This paper will explore the purposes along with the other questions through a compilation and analysis of an array of scholarly articles, robust legislative or judicial policies, and feedback from stakeholders in Washington State.

History of DUI Laws in the United States

In 1906, New Jersey became the first state in America to establish a statute that stated, "No intoxicated person shall drive a motor vehicle" (Taylor & Taylor, 2020). New York went a step further and enacted a law explicitly outlawing drunk driving in 1910, with several states following suit thereafter (Lewis & Neal, 2023). Over the next 25 years, there was no way to measure the level of intoxication; therefore, laws did not define a numerical level of intoxication (Taylor & Taylor, 2020). Fortunately, in 1931 Dr. Rolla Harger invented the Drunk-O-Meter, a first of its kind breathalyzer to measure intoxication levels, on the campus of Indiana University School of Medicine (Mentzer, 2018). In the 1940's states began adopting .15% as their legal limit for blood alcohol concentration (Russman, 2013). In 1984, the United States implemented the National Minimum Drinking Age Act, prohibiting persons under 21 years of age from purchasing or publicly possessing alcoholic beverages (APIS, n.d.). "By 2004, every state had passed a .08 BAC per se law" (Foundation for Advancing Alcohol Responsibility, 2020). Over the last three decades groups and organizations such as Mothers Against Drunk Driving, American Automobile Association, and the Centers for Disease Control continue to emphasize more stringent legislation in regards to impaired driving including but not limited to ignition interlock requirements, lower per se BAC limits, and stricter penalties for repeat offenders

(CDC, 2022). Despite efforts to reduce impaired driving offenses, the issue remains endemic (CDC, 2022).

History of DUI Courts

Federal Probation, A Journal of Correctional Philosophy and Practice surmised the influx of crimes related to drugs or by drug-addicted individuals in the United States during the 1980's was a significant issue for the criminal justice system (Lurigio, 2008, p. 1). Established by the need to have specialized programming in the courts for these offenders the "Drug Treatment Court" model came to fruition and in 1989, Miami-Dade County Florida established the first felony drug court (Lurigio, 2006, p. 2). Many urban areas, such as Philadelphia, Chicago, and Los Angeles followed over the next few years (Lurigio, 2006, p. 2-3). The drug court model follows *The 10 Key Components of Drug Courts* developed by the National Association of Drug Court Professionals (NADCP), (Appendix A). In 1997, NADCP and the Department of Justice (DOJ) convened a group to look at the effectiveness of utilizing the drug court model for the impaired driver population and sought a court to serve as a mentor to other emerging DUI courts. NADCP named Bernalillo County Metropolitan Court in Albuquerque, New Mexico as the first DWI Mentor Court as they had been successfully piloting this type of program (Kavanaugh, 2016). NADCP, borrowing from the drug court model, created *The 10 Guiding Principles of DWI Courts* (Appendix B). These principles assist driving-while-intoxicated courts (DUI courts) in establishing and maintaining their programs, while maintaining fidelity to the DUI court model. The Foundation for Advancing Alcohol Responsibility (2020) succinctly captures the premise of the DUI court model:

> The population that these courts target is DWI offenders who are not deterred by traditional sanctions and are highly resistant to behavior change (as demonstrated by their

> multiple convictions). These offenders are most commonly classified as high-risk/high need. Each DWI Court participant will have individualized supervision and treatment plans that are designed to address both their risk level and specific criminogenic/treatment needs. To determine what this plan entails, courts rely heavily on screening and assessment to guide decision-making. (p. 1)

As of 2023, there are over 300 standalone DUI courts in the United States (Foundation for Advancing Alcohol Responsibility, n.d.). The map in Figure 1 illustrates the prevalence of DUI courts by state and shows in grey, which states do not have a recognized DUI court program in any jurisdiction as of 2023.

Figure 1

Map of Standalone DUI Courts in the United States

Foundation for Advancing Alcohol Responsibility, 2023.

Washington State

In 1979, Washington State enacted a law specifically prohibiting driving under the influence at .10 percent per se limit (Driving under the influence, Chapter 176, 1979). Since the original law passage, many amendments have occurred in the last 45 years including adding a lower per se limit to .08, adding blood tests for other drugs and adding a THC limit. (Driving under the influence, RCW 46.61.502, 2022) (Appendix C). Furthermore, Washington State has a similar law that differentiates being in actual physical control of a motor vehicle while under the influence versus driving under the influence (Physical control of vehicle while under the influence, RCW 46.61.504, 2022) (Appendix D). These laws are defined as gross misdemeanors in Washington State, however in some cases they can be elevated to a felony if other circumstances are met (Driving under the influence, RCW 46.61.502, 2022; Physical control of vehicle while under the influence, 46.61.504, 2022). Washington State Administrative Office of the Courts defines district and municipal courts as courts of limited jurisdiction (non-unified). Courts of limited jurisdiction adjudicate gross misdemeanors and misdemeanor level offenses (AOC, 2011, p. 9). Defendants charged with either of these offenses may have a variety of adjudication options including but not limited to amendments to lesser offenses, pre-trial diversion programs, deferred prosecutions[2], and DUI court (AOC, n.d.). Defendants convicted of multiple impaired driving offenses are subject to mandatory minimum sentences; substance use disorder assessments; and mandatory conditions of probation ("Court DUI Sentencing Grid," 2021) (Appendix E). These legislative mandates should be viewed as the minimal standard for

[2] Deferred prosecution is a program in the State of Washington, whereby if you are accused of certain crimes, including DUI, and the crime was caused by a substance use disorder or mental health disorder, the case can be dismissed if you receive treatment for that problem, abide by conditions of probation, and have no new similar offenses. You can only have one deferred prosecution in lifetime (Deferred Prosecution, RCW 10.05, 2024).

supervising impaired drivers in Washington; therefore, additional accountability measures to increase public safety and offender accountability are necessary.

In 2000, the Washington Traffic Safety Commission (WTSC) published *Target Zero: A Strategic Plan for Highway Safety*, which outlines efforts to eliminate traffic fatalities and improve traffic safety over the next 30 years. WTSC updates the plan every three years to evolve with driving trends and fatality statistics (Transportation for America, 2015). Since the original plan, each revision had driver impairment as an area of emphasis. One strategy within this area of emphasis is "Support and establish DUI Courts" (WTSC, 2019, p. 58). The first DUI Court in Washington State began at Spokane County District Court in 2006 (AOC, n.d.).

The Future of DUI Courts

Throughout Washington State and the country, DUI courts while following the same model can look significantly different from one jurisdiction to another. This paper describes the implementation of state-specific guidelines that can provide consistency in standards, evaluation, and address weaknesses within the DUI court model as employed specifically in Washington State. It takes a multi-faceted approach to answer the research questions related to defining and implementing program standards and performance measures in Washington State. Information is given to provide a deeper understanding of the necessity for DUI courts and examine the variety of criteria, tenets, and assessments established by a multitude of states and identify common and diverging themes. Additionally, it will describe data and information collected from courts within Washington State and outline the methods used to collect the data, which include a comprehensive survey of program standards and fidelity to the DUI Court model, structured interviews and follow-up questions to garner information from nearly six out of nine DUI courts in Washington. These will provide insight into the current operations of established programs,

the lack of uniformity between courts, and the performance measures and program standards among reporting courts. Next, the qualitative feedback of stakeholders will be shared, which will reflect the strengths and weaknesses of the surveyed and interviewed courts. Lastly, based on findings from both the literature and collected data, conclusions will highlight similarities between local and national DUI court programs and the successes and barriers within established and perceived program standards and performance measures. The conclusions will also illustrate how universal program standards and performance standards support current and future DUI court programs. Additionally, recommendations will include detailing strategies on how Washington State may wish to proceed with general oversight of DUI court programs, such as by implementing a series of comprehensive benchmarks, and conducting supplementary DUI court research.

Literature Review

The necessity of problem-solving courts has become more evident given trends in crime, justice reform, and implementing therapeutic approaches in the judicial system. Some of the most common problem-solving courts are drug courts, mental health courts, veteran courts, and domestic violence courts (Hughes et al, 2017). Research on problem-solving courts is evolving and leading to results that are more advantageous for all involved (Slayton & Conference of State Court Administrators, 2015). The literature exemplifies trends in impaired driving that compel the need for DUI courts (Harron & Kavanaugh, 2015, p.1). Leading national organizations such as AllRise and the National Center for State Courts establish best practice standards as a framework for therapeutic courts such as DUI Courts (NCDC, n.d., Marlowe, 2010). Additionally, states continue to develop and mandate universal DUI court standards and performance measures (Foundation for Advancing Alcohol Responsibility, n.d.). DUI court evaluations by different researchers and analysts are also advantageous for creating and implementing performance measures (NCDC, 2011, NCSC, 2008).

DUI Statistics and the Need for DUI Courts

Annually many organizations, nationally and locally, publish DUI statistics and adjudication rates for example state highway safety administrations, police departments, and non-profits such as Mothers Against Drunk Driving. Courts and funding authorities use these publications to determine the need for enforcement measures including but not limited to DUI courts (Harron & Kavanaugh, 2015). Impaired driving numbers continue to be prevalent nationally and in Washington State. According to the Centers for Disease Control and Prevention's (CDC) webpage *Impaired Driving: Get the Facts* (2022):

- An estimated 32.6 million people drove under the influence of alcohol and/or drugs in 2019, based on a national survey conducted in 2020.
- Statistically someone drives under the influence at least 80 times prior to a law enforcement stop.
- There is one death every 45 minutes nationwide as the result of an impaired driver.
- Eleven thousand people were killed in impaired driving collisions in 2020; accounting for 30% of all traffic related fatalities in the United States.
- Impaired drivers involved in fatal accidents were four times more likely to have a prior DUI conviction.

The 2023 Washington Traffic Safety Commission (WTSC) *Report to the Legislature*, reports that driver impairment due to alcohol and/or drugs is the number one contributing factor in fatal crashes and are involved in nearly half of all traffic fatalities (p. 8). The report also asserts poly-drug use (combinations of alcohol and drugs or multiple drugs) is now the most common type of impairment among drivers in fatal crashes in Washington State (p. 8). In Washington State, 28.4% of drivers receiving a DUI, from 2008-2017, were repeat offenders (individuals showing a prior DUI on their driving record) (WTSC, 2019). In 2023, there were 21,895 DUI/Physical Control charges filed in courts of limited jurisdiction in Washington (AOC, 2024). These figures are evidence of a crime that is ubiquitous and can be escalating.

Driving under the influence can affect any community and have a profound effect on any individuals involved (citizens or offenders). The benefits of DUI courts to the public are numerous. As Harron and Kavanaugh assert, “DWI Courts reduce DWI recidivism and general criminal recidivism while returning substantial cost savings to taxpayers. Early evidence suggests DWI Courts can also reduce the incidence of car crashes on our nation’s highways”

(2015, p. 1). One study showed that "DWI Courts produced average net cost savings of $1,505 per participant and $5,436 per graduate (Harron & Kavanaugh, 2015, p. 5). A benefit-cost summary statistic in Washington State showed an average total benefit (savings) of $5,156 per DUI court participant (Washington State Institute for Public Policy [WSIPP], 2023). In addition to reduced recidivism, the public safety advantages include increased accountability with more frequent visits with probation, random drug testing, home visits, and swift and certain responses to violations (Foundation for Advancing Alcohol Responsibility, n.d.). These benefits are not only for the public, but also for the program participant, as the increased accountability has shown to reduce recidivism (NCDC, n.d.).

DUI courts service the participant by providing individualized supervision and treatment that meets them at their risk and needs level (Foundation for Advancing Alcohol Responsibility, n.d.). In Washington, it has been found that DUI court not only provide an alternative to incarceration, but also encourage early treatment and intervention (WTSC, 2019, p. 47). Participants also have the benefit of working with a team of professionals (judge, attorneys, law enforcement, treatment, probation) who will work together to provide support and accountability in a non-adversarial approach (NCDC, 2015). Research has also shown that defendants in these programs were "more likely to comply with court, probation and DMV requirements" (Harron & Kavanaugh, 2015, p. 5). Additionally, there is an argument that DUI court participants have greater success than traditional court defendants due to an increased access to resources (Flango, 2005). Moreover, the social benefits are also immeasurable.

> DWI Courts also produce benefits, both tangible and intangible, which extend beyond crime reduction and cost savings. Transitioning a repeat DWI offender into sustained recovery means more than just reduced recidivism. Recovery also leads to healthier

> families, better work productivity, fewer people on public assistance, fewer medical costs, and numerous other benefits to communities, families and individuals (Harron & Kavanaugh, 2015, p.6).

Analysts and organizations support DUI Courts as an intervention for high risk/high need offenders. A 2012 meta-analysis of 28 DWI court evaluations conducted by The Campbell Collaboration showed support for the efficacy of DWI Courts (NCDC, 2015, p. 2). In 2013, "the National Transportation Safety Board (NTSB) endorsed DWI Courts as a proven strategy for rehabilitating repeat DWI offenders" (NCDC, 2015, p. 1). Significant research and meta-analyses have been conducted in regards to drug courts, but research on DUI courts is still evolving (Harron & Kavanaugh, 2015, p. 1). Utilizing the research on DUI Court principles and compliance and various state DUI/Drug court standards and program evaluation, collective and conflicting elements will now be reviewed.

Program Standards: Building on the basics

The Ten Guiding Principles of DWI Courts (Appendix B) are the roadmap for DUI courts. "Research has indicated that a "good-quality" DWI Court significantly reduces recidivism" (NCDC, n.d. p. 1). The principles cover who is eligible for the program utilizing risk, need, and clinical assessment of potential participants (NCDC, n.d. pp. 2-3). Principles three, four, seven, and eight weigh in on how to develop treatment, supervision case management, and transportation plans. These principles contribute to the individual's substance use disorder recovery, prevention of violations of probation, assure accountability with affirmative conditions of sentence, and prevent future driving related traffic offenses. Principles five and six build on forging partnerships with agencies, organizations, and the community; as well as establishing a strong judicial presence (NCDC, n.d. pp. 3-8). The last two principles

(nine and ten) assist in the program sustainability through evaluation and funding. As mentioned in an earlier section, NCDC publishes the *DWI Court Model Compliance Checklist (NCDC, n.d.)*; this document provides additional criteria within each principle that are considered DUI court best practices. However, courts have discretion in how they can best interpret the principle due to varying laws, needs, and resources available to them. As seen in examples below, state court administrative offices have taken the principles one-step further and developed mandated program standards.

States such as Georgia, Minnesota, and Nebraska have established and published state treatment/DUI court standards. In these states, it is evident that they used the guiding principles as basis for more specific tenets.

Screening and assessment

Screening and assessment procedures determine who is eligible for admission in these programs. Most commonly, those determined high risk/high need individuals are prime candidates for specialty court programs (Foundation for Advancing Alcohol Responsibility, n.d.). The *State of Georgia Adult DUI/Drug Court Standards* (2022, Section VIII- 3) t more specifically states about their eligibility standard:

> The target population for DUI/Drug courts should be multiple DUI offenders with a minimum of two DUIs in five years or three or more DUIs in a lifetime. Program eligibility determination shall include the review of the potential participant's criminal history, legal requirements, and clinical appropriateness, including the administration of a risk and needs assessment."

The Minnesota Judicial Branch State Court Administrator's Office provides in their *Minnesota Treatment Court Standards* (2019, pp. 6-7) that participants are selected based on objective

eligibility, meet a diagnostic criterion for moderate or severe substance use disorder, and are at a substantial risk to reoffend. Low risk individuals are also able to participate in the treatment court program in a separate track. Likewise, the Nebraska Adult Drug Court and DUI Court Best Practice Standard (2020, p. 11) is almost verbatim of Minnesota's eligibility standard. By providing additional guidance and definitions for these steps, courts can have a firm foothold before venturing into the next principles.

Making a plan-a holistic approach

Each state's standards include protocols on treatment, supervision, case management, and transportation plans to assist the participant in a successful journey of compliance and law-abiding behavior. In Nebraska, there is a requirement for a "continuum of care for substance abuse treatment. Participants shall receive sufficient dosage and duration of substance use treatment to achieve long-term sobriety and recovery from addiction (Broscious et al, 2020, p.22). In the same document, the importance of evidence-based treatment and medication-assisted treatment in collaboration with the DUI court model is also addressed (Broscious et al, 2020, p.23). In Georgia, "DUI/Drug courts must carefully select and implement treatment practices demonstrated through research to be effective with the hard-core impaired driver to ensure long-term success (CACJ, 2022, 4.1, 4.2)." In conjunction with treatment, supervision plans aid in increasing accountability for program participants and in all three states supervision plans require random drug testing (CACJ, 2022, 5; NCSC, 2020, p. 41; Minnesota Judicial Branch, 2019, p. 11). The standards reviewed (Georgia, Minnesota, and Nebraska) all take different approaches on community supervision and case management plans. Nebraska's plan includes a supervision principle that states "Community transition establish(es) sustainable mechanisms for healthy and pro-social community integration (Broscious et al, 2020, p.69). In

addition, Georgia's standards provide that "programs should ideally offer or make appropriate referrals for ancillary services to meet the needs of participants" (CACJ, 2022, 4.6). Likewise, Minnesota includes a section on ancillary services "such as housing assistance, trauma-informed services, criminal-thinking interventions, family or interpersonal counseling, vocational or educational services, and medical or dental treatment. Participants shall only be required to receive services for which they have an assessed need" (Minnesota Judicial Branch, 2019, p. 16). Transportation plans often fall within supervision and case management plans, as ancillary services (Broscious, et al, 2020, p. 69). Georgia also stipulates how often participants shall have contact with treatment, probation and case managers of at least one time per week during the first year of the program (CACJ, 2022, 1.12).

It takes a team

The judge is the central role of the DUI court. Each state reviewed outlined the requirements of the judge who oversees the DUI court program. In Nebraska, training, term length, frequency of hearings, length of court interactions, and demeanor of the judge are all outlined (Broscious, et al, 2020, p. 36). Nebraska again mimics Minnesota's standard when it comes to judicial standards and hearing (Minnesota Judicial Branch, 2019, p. 9). Section 7 of the Georgia DUI/Drug Court standards addresses the judicial role in programs affirming, "The judge's role is paramount to the success of the DUI/Drug court program. The judge must possess recognizable leadership skills as well as the capability to motivate team members and elicit buy-in from various stakeholders" (CACJ, 2022, 7.1).

Beyond the judge community supervision, treatment, case managers, law enforcement and court coordinators there are other contributors to DUI court program teams (Foundation for Advancing Alcohol Responsibility, n.d.). Georgia outlines that all team members shall attend

not only foundational training[3], but also tune-up or refresher training every five years (CACJ, 2022, 9.2, 9.4). Standards from the reviewed states have highlighted the need for ancillary services; these service providers could be considered a stakeholder in the treatment court teams as well. The model recommends aftercare services, often these come in the form of mentoring and alumni groups, sober support organizations, educational entities, and state assistance organizations (CACJ, 2022, 4.7; Foundation for Advancing Alcohol Responsibility, n.d.). Locally, the recommendation is for courts to have local steering committees that can provide policy guidance, funding assistance, and feedback to the program (CACJ, 2022, 10.1; AllRise, n.d.) Organizations on the state and national level remain instrumental partners in DUI courts. AllRise Impaired Driving Solutions formerly known as the National Center for DWI Courts, "partners with federal agencies, state highway safety offices and leaders in the private sector to provide cutting-edge training and targeted support" to current and aspiring DUI court teams (AllRise, n.d.). These partnerships are essential for the viability of DUI courts.

Sustainability and Evaluation

Sustainability goes beyond just financial considerations, but also includes the relationship portion of the program. If a key member of the team is not willing to participate or no longer believes in the program, the program could fail. It is essential to make all members as well as the public feel invested and heard within the program (NCDC, n.d., p. 10). This portion of sustainability directly relates to the team aspects as listed in the previous section. Previously in the paper, the cost savings of DUI courts over traditional courts overtime were reported. However, there are still operational costs to these comprehensive programs. The DUI court model is explicit, "The foundation for sustainability is laid, to a considerable degree, by careful

[3] Foundational Training-An interactive workshop that provides the roadmap for treatment courts to successfully serve individuals with impaired-driving offenses. (National Center for DWI Courts, n.d.)

and strategic planning. Such planning includes considerations of structure and scale, organization and participation and, of course funding" (NCDC, n.d., p. 10). Georgia follows the NCDC suggestion for DUI courts to consider forming an independent non-profit as a way to fundraise and oversee the steering committee (CACJ, 2022, 10.3). Neither Nebraska nor Minnesota address financial sustainability within their best practice standards. This proved to be a limitation in the existing research of this portion of sustainability.

Each of the courts' standards emphasized the importance of evaluating the program. The *DWI Model Compliance Checklist* gives potential performance measurements as well as outcome evaluation measurements for courts to use to evaluate their programs. NCDC has also published *Introductory Handbook for DWI Court Program Evaluations* (Marlowe, 2010) as a resource for courts to comply with this guideline. Georgia's standards outline the types of performance measures to used, how often process and outcome evaluations are required, and how to utilize feedback, surveys, and findings to make program changes (CACJ, 2022, 8). Again, Minnesota and Nebraska's standards for evaluation are nearly identical. They follow the standard model: appropriate use of electronic case management, timely and reliable data entry, independent evaluation, comparison groups, and using data and evaluation to program manage (Broscious, et al, 2020, pp.59-61). The next session will review actual state program evaluations and the measures they used.

Performance Evaluations

Why

The National Center for State Courts has stated:

> Performance measurement has come to be considered an essential activity in many government and non-profit agencies because it "has a common sense logic that is

> irrefutable, namely that agencies have a greater probability of achieving their goals and objectives if they use performance measures to monitor their progress along these lines and then take follow-up actions as necessary to insure success". (NCSC, 2008, p. 1).

The *Introductory Handbook for DWI Court Program Evaluations* (Marlowe, 2010) was published to respond to challenges DUI courts may encounter when trying to evaluate their programs (Marlowe, 2010). NCDC stresses, "A credible evaluation is the only mechanism for mapping the road to program success or failure" (NCDC, n.d.). The handbook provides the framework for the when, whom, what, where and how of data collection, with the goal of using the findings to allocate resources, improve programs, and provide information in a timely manner (Marlowe, 2010, p. 9).

When

The handbook emphasizes timely recording of information, for the most accurate retention of information on client status. The information should include date, who was present, what was done and how often. The greater the detail the better the ability to make findings. (Marlowe, 2010, p. 11). Marlowe defines "when" as the date the participant began the program until the end of the measuring period (2010, p. 13). NCSC's *Performance Measurement of Drug Courts: The State of the Art* distinguishes time frames of evaluations as being conducted periodically or during a specific period whereas performance management is the operational and program standards that are reviewed regularly to provide a more timely response to findings (NCSC, 2008, pp. 68-69). Reviewing evaluations of different DUI Court programs reveals that, the timing of their evaluations is based on the purpose as established by the research. *An Evaluation of Three Driving-Under-the-Influence Courts in Georgia* (Fell et al, 2011) used a four-year period for their impact evaluation showing recidivism post DUI court

completion/termination. Other evaluations measuring recidivism rates used periods as 12 months post-entry to 54 months post-entry. Literature did not define a suggested timeframe only stating the need to consider the goal of the sample period (Marlowe, 2010, pp. 12-13)

Whom & Where

The literature recommends not only measuring active participants in the program (NCSC, 2008, p. 71), but also comparison groups (Marlowe, 2010, p. 18). Furthermore, the population measured can be broken up into smaller groups or co-horts and randomized or not within the comparison groups, but need to have a direct correlation to the base panel or control group. A statewide project in 2009 aided Pennsylvania in the development of performance measures. One of their groups analyzed was a "Status of Admissions Cohort" including participants who: 1) Graduated, 2) Were terminated, 3) Voluntarily withdrew, 4) Were deceased, or 5) Were on bench warrant (NCSC, 2009, p. ii). The "where" can be the DUI court or courts within a given area in the sample for evaluation. Where can also refer to the location of the information i.e. case management systems, spreadsheets, feedback, and reports (Marlowe, 2010, pp. 33-36).

What

Marlowe suggests DUI courts measure performance indicators (items of quantifiable measure) "that can reveal how well a program is functioning and what types of services are actually being delivered". He also poses the option of additionally measuring "moderator variables" which can tell the researcher who is receiving services (demographic and diagnosis information) (Marlowe, 2010, p. 25). Performance measures routinely gathered by DUI courts include (Harron & Kavanaugh, 2015, p. 3; NCSC, 2008, pp. 86-88; Marlowe, 2010, p. 26):

- Recidivism
    - During program

    - After program
- Admissions
    - Number referred
    - Number enrolled
    - Number in each phase
    - Number terminated
    - Number graduated
- Sobriety
- Number of contacts
    - Hearings
    - Treatment
    - Probation
    - Drug Testing
    - Sanctions and Incentives

The National Center for State Courts urges courts to keep the number of performance measures "small, but targeted at critical functions of the court" in order to have a promising chance at achieving their goals (NCSC, 2008). The performance measures are the heart of research and evaluation. Unfortunately, each jurisdiction and evaluator often defines the terms differently. Below is a list of definitions from evaluations for the term "recidivism":

- "Re-arrest" (Taylor et al, 2008, p. II)
- "The incidence of new criminal law activity occurring after participants entered the program. This includes new criminal activity occurring while participants are

enrolled in the program and after they have graduated from or been terminated from the program" (Marlowe, 2010, p. 51).

- "An arrest that occurs during or after program exit for new felony or misdemeanor offense if, and only if, that arrest results in a conviction" (Rubio & Cheesman, 2009, p. 4).
- "Percentage of participants reoffending during program" or "percentage of participants convicted of a new offense for up to two years after program exit, measured annually"(NCSC, 2008, p. 88).

How

A Framework for Managing Drug Court Performance provides insight that is relevant to DUI courts on how to measure performance as the DUI court model originates from the drug court model. Using relevant research, empirical data, and affirmed by expert professional opinion performance targets, (the desired results) can be selected (NCSC, 2008, p. 80). Data collection is the beginning of evaluation. By utilizing whom, where, and what gathered during data collection, the information can be dissected to determine the relevance to the performance target. Data collectors often divide performance measures by objective, how they fit into the key principles, program standards, or at times needed to be reflected in grant funding (WTSC, n.d.). Marlowe recommends that professionals conduct more formal program evaluations (outcome evaluations), as there are many pitfalls of program analysis (Marlowe, 2010, p. 38). It is also necessary to remember to utilize the DUI court team, stakeholders, and participants to provide information that not measured by numbers or statistics, but by feedback through exit interviews, program assessments, or periodic surveys (Broscious, 2020, pp. 7-9).

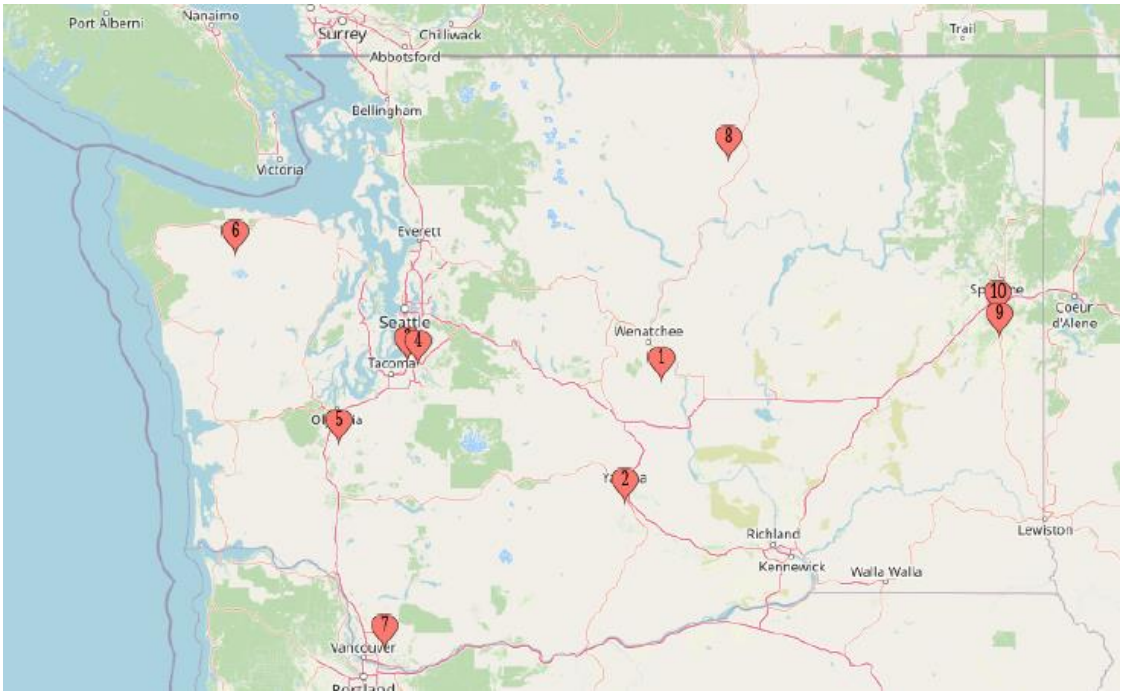
The data trends of impaired driving outlined why additional prevention methods, such as DUI courts are a viable alternative to traditional supervision and that they have shown to reduce recidivism. The program standards provided by the National Center for DWI Courts and the states of Minnesota, Nebraska, and Georgia provided not only a foundation for current and future programs, but also a connection to possible performance measures/standards. Understanding the goal of established standards and measures deliver avenues in which courts can improve processes, accountability, transparency, and success for their programs.

Methods

An online survey utilizing Google Forms, phone/virtual interviews with DUI Court stakeholders, and follow-up questions clarifying previous statements provided the qualitative data that establish an overview of DUI Court practices, performance measurements, and program standards throughout the courts in Washington State. The nine DUI Courts in the state as mapped in Figure 2, and the Washington Traffic Safety Commission (WTSC) received invitations from the author to participate in the research. The list of potential contributors came from the Washington State Administrative Office of the Courts directory of therapeutic courts.

Figure 2

Map of Washington State DUI Courts[4]



Mapcreator.io, March 2024.

[4] 1. Center of Washington State
2. Yakima County District Court
3. Des Moines Municipal Court
4. Kent Municipal Court
5. Thurston County District Court
6. Clallam County District Court
7. Clark County District Court
8. Okanogan County District Court
9. Spokane Municipal Court
10. Spokane District Court

The survey was comprised of 35 questions (Appendix F) relating to perceived compliance with the *Ten Guiding Principles of DWI Courts,* individual court policies/procedures, program standards, and performance measures. A draft was sent to DUI court case managers in Des Moines Municipal and Kent Municipal Court, as well as a representative from WTSC's advisory council. Feedback from the preview indicated the survey, albeit lengthy, was easy to follow and comprehensive. In late November 2022, an email to DUI Court Coordinators requested responses to the survey and any additional feedback about their programs, along with an invitation to participate in further interviews, follow-up questions, and to provide resources. A reminder to complete the survey occurred in late December 2022 and the survey closed on January 4, 2023. Six of nine courts completed the survey. Google Forms provides automatic aggregate data where appropriate, allowing for concise interpretation of numerical results. The use of this platform also allowed for storage of the results within the Google platform. The survey identified the participants for the questionnaire and interviews with the final question.

Interviews with three stakeholders (a judge, a defense attorney and a treatment provider) from separate courts occurred between April 2023 and December 2023. The interview consisted of six questions that inquired more deeply about program evaluation (Appendix G). Interviews took place over the phone or via the Zoom platform. The interview questions often led to extended conversations that provided areas of additional insight into DUI court operations and roles. The author served as interviewer and recorded handwritten responses to the interview questions. One participant also provided written responses to the interview questions following the Zoom meeting. The notes from the interview and written responses were stored in a folder on a jump drive along with other materials related to this research.

Lastly, all nine courts received a set of written follow-up questions (Appendix H) via email in February 2024 requesting clarification on individual court's definitions of performance measures and program standards by asking: "Do you have Performance Measurements for your court defined?" and "Do you have Program Evaluation for your DUI Court?" The written follow-up questions also provided examples of program standards and performance evaluation criteria to help illustrate definitions for "performance measures" and "program standards". Three courts responded to this request. No follow-up emails to gather more responses were sent due to time constraints and because the three existing responses did not produce, the in-depth information being sought. In hindsight, the follow-up questions would have been better asked through a phone call or face-to-face interview where a guided conversation could occur. Responses to the written follow-up questions were saved on the email server as to be date and time stamped upon return. The responses were also printed to utilize as a hard copy.

Due to the number of DUI courts in the state, the sample size was limited, preventing any quantitative analysis. However, the feedback and answers provided allowed for qualitative analysis. Another research limitation occurred because many courts have seen attrition during the research period late 2022 through early 2024. The changing staff did not always allow for follow up with the initial responder to clarify answers from the survey or interviews. Of the nine Washington State DUI Courts six participated in the survey, three participated in the interview (including one who did not participate in the survey) and three participated in the follow-up questions. Two courts did not respond to any requests to participate.

The data analysis process used consisted of multiple steps. First, answers were divided by type of question: objective, short-answer, and open-ended. Many of the questions were objective questions, only giving structured options as responses. The objective questions

allowed responses to be aggregated, thus providing generalized DUI Court practices and procedures. Next, the evaluation continued with the short answer questions. Responses to these questions varied, however, as they could be answered in a short sentence, such as "What is the minimum length of your program? 24 months," so that they could be easily summarized. Lastly, the answers were reviewed from the open-ended questions. Content for these questions tended to be procedural in nature or subjective opinions. These answers were grouped into categories by operational standards, units of performance measure such as recidivism rates and number of sanctions imposed, and subjective opinions on their program strengths and weaknesses.

The interview questions were developed as an extension of the open-ended survey questions, based on the need for clarification of court responses, and to gather additional insight into how different members of the DUI court team perceive their programs. The interview questions and survey responses were reviewed for key terms, common themes, and differing practices in the responding courts. Moreover, the National Center for DWI Courts *DWI Court Model Compliance Checklist* (n.d.) was used as a benchmark to compare the responses provided. This permitted the determination of whether "a court that asserts itself to be a DWI Court…is remaining true to the model (p. 1)." As noted in that publication, "This Checklist provides what factors are expected for each principle; it will still require a thorough deliberation. Some individual states will have additional requirements set by statute or policy; those will need to be incorporated into this checklist (p. 1)." The checklist provided additional context and permitted a better understanding and ability to gauge program similarities and differences within Washington. It is important to note all participating courts and stakeholders were assured anonymity in any published or disseminated results.

Findings

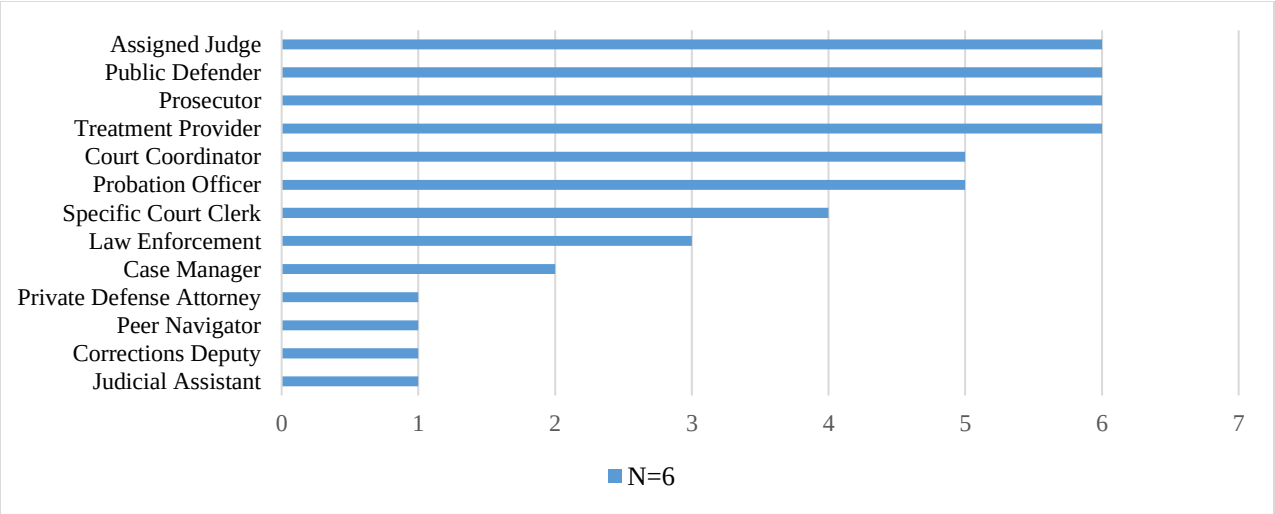
This section gives an overview of the findings and outcomes of the survey, interviews and follow-up questions of Washington State DUI courts/stakeholders based on the methodology described in the previous chapter. Of the six surveyed DUI courts, the earliest established was in 2006, and the most recent in 2018. One-third of responding courts mandate participation by eligible participants. Five courts responded with the number of individuals their courts have served, the total of all courts is 355 defendants, with one court having served 143 people.

Finding 1

The first finding indicates that DUI courts in Washington State believe that they are utilizing the foundations of the DWI Court Model. The survey results show that, at some point, all DUI Court programs had members that attended Foundational Training through the National Center for DWI Courts. One of the six responding courts had program members that had not yet completed foundational training. All of the reporting courts stated they are following *The Ten Guiding Principles of DWI Court* (Appendix B), however two of the six courts reported that some members of their DUI court teams were not familiar with these principles. The DWI Court Model lists the following as recommended team members: Judge, probation, law enforcement, treatment, defense counsel, prosecution, and court coordinator. Figure 3 below shows the type of DUI Court team members in the surveyed courts.

Figure 3

Active DUI Court Team Members



Finding 2

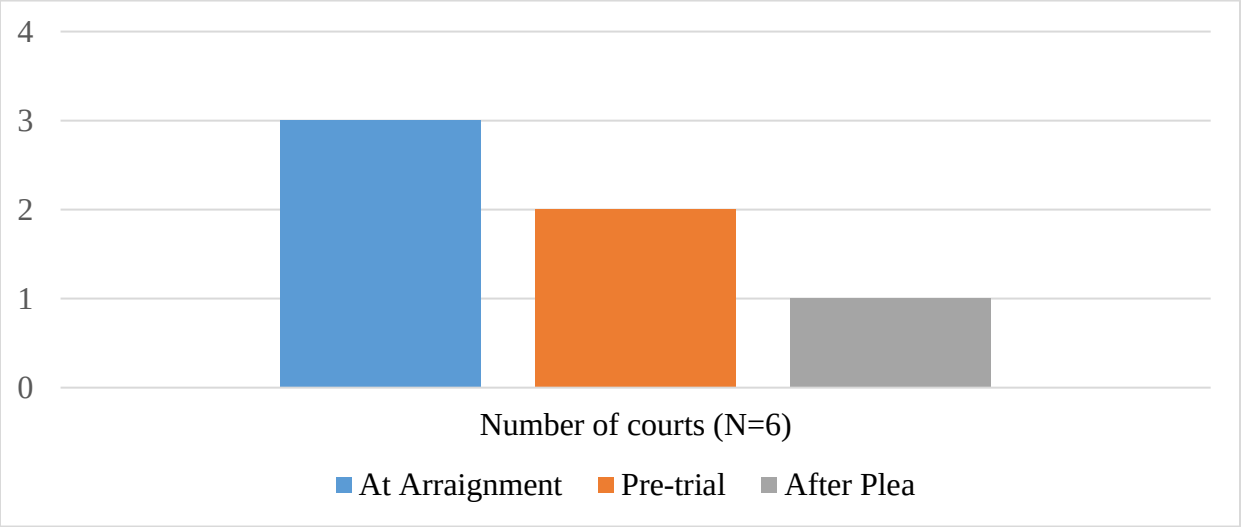
The second finding from the research shows that of the responding courts, program standards and operational standards are not consistent. Of the six respondent courts, no two courts responded to questions on screening, eligibility or program requirements similarly. The figures below outline the differences.

Respondents reported use of different risk, needs, and responsivity (RNR) assessments (RANT, IDA, ORAS, or CARS[5]) and varying timeframes for when they administer these assessments to potential participants. The most common time to administer RNR assessments is prior to entering the DUI court program, with at least half of the courts affirming this (Figure 4).

[5] RANT: The Risk and Needs Triage; IDA: Impaired Driving Assessment; ORAS: Ohio Risk Assessment System; or CARS: Computerized Assessment & Referral System

Figure 4

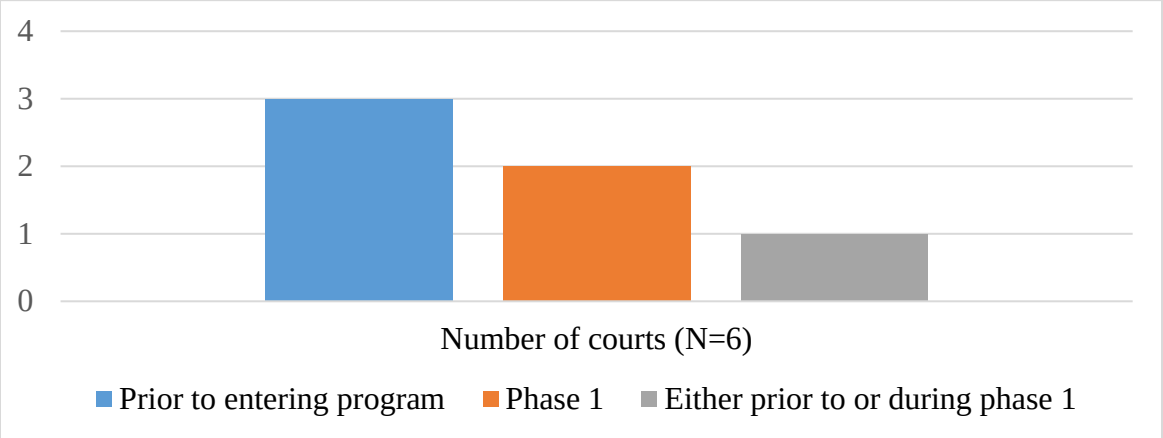
Risk/needs screening for potential DUI court participants



The survey also identified that DUI court programs require participant clinical assessments (substance use disorder assessments or co-occurring disorder assessments) at different times during the DUI court program (Figure 5).

Figure 5

Clinical screening for substance use or co-occurring disorder



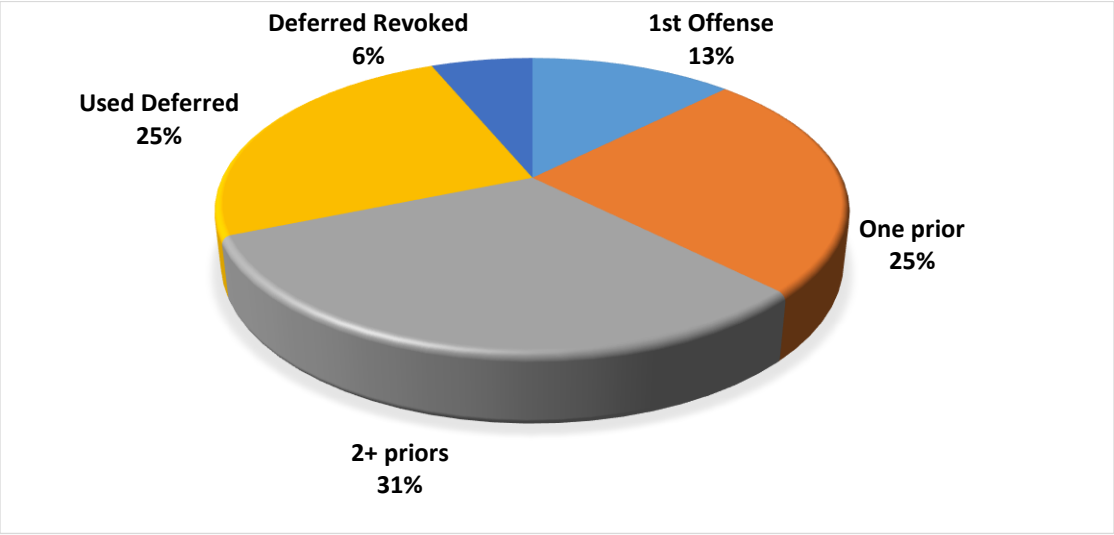
[6]

[6] Phase 1-The first phase that participants enter upon admission into a DUI court program (NCDC, n.d.).

All courts stated that they have established eligibility requirements. Yet, who is eligible based on DUI conviction history for DUI Court programs varies as shown in the following figure. All courts reported that they only accept high risk and high needs individuals as assessed. In addition, courts review prior DUI history as part of the eligibility process. Figure 6 below outlines eligibility for DUI court participation by conviction history that courts will admit into their programs. The options were 1st Offense (no prior history), one prior DUI or related offense, two or more prior DUIs or related offenses, individuals who were granted a deferred prosecution in the same court, but were revoked, and those who require that defendants have exercised their right to a deferred prosecution prior to entering into DUI Court. It is important to note that courts can accept participants who meet more than one category level as indicated in Figure 6 below.

Figure 6

Eligible DUI Court Participants based on prior DUI history

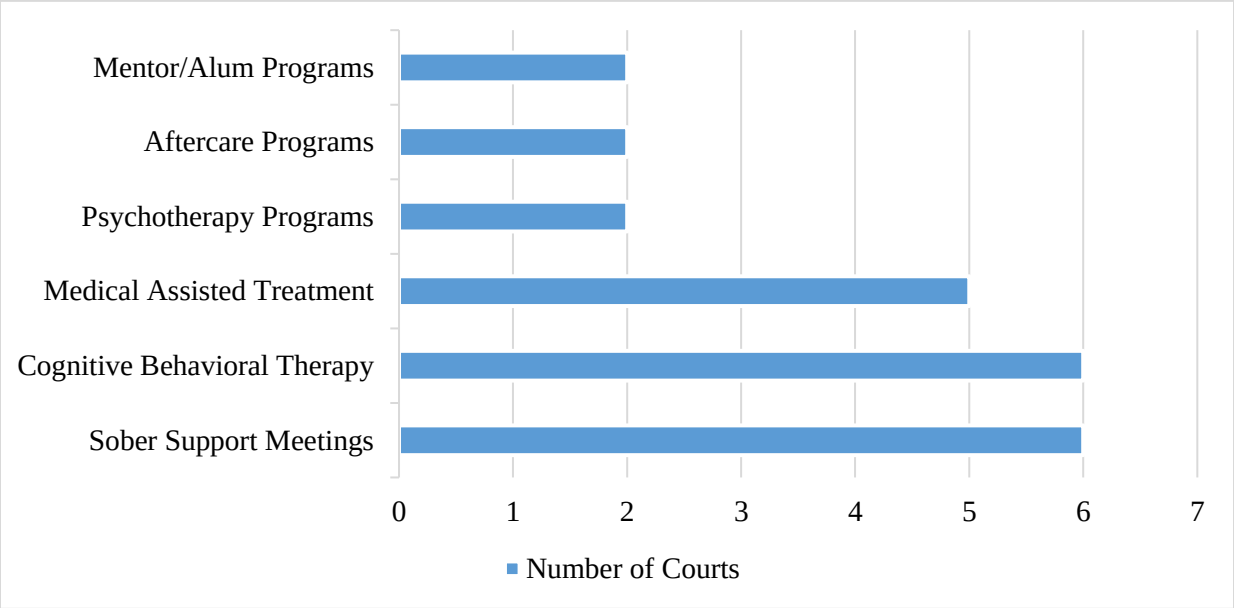


Program requirements provide another differentiation between the courts. The minimum DUI program participation length varies between 12 months for one court and 36 months for one court. The most common program length is 18-24 months (four courts). Furthermore, courts

divide programs into between three and five phases plus aftercare. Within these phases, other sub-programs such as cognitive behavioral therapy, medication assisted treatment, and sober support meetings can be required depending on the jurisdiction (Figure 7).

Figure 7

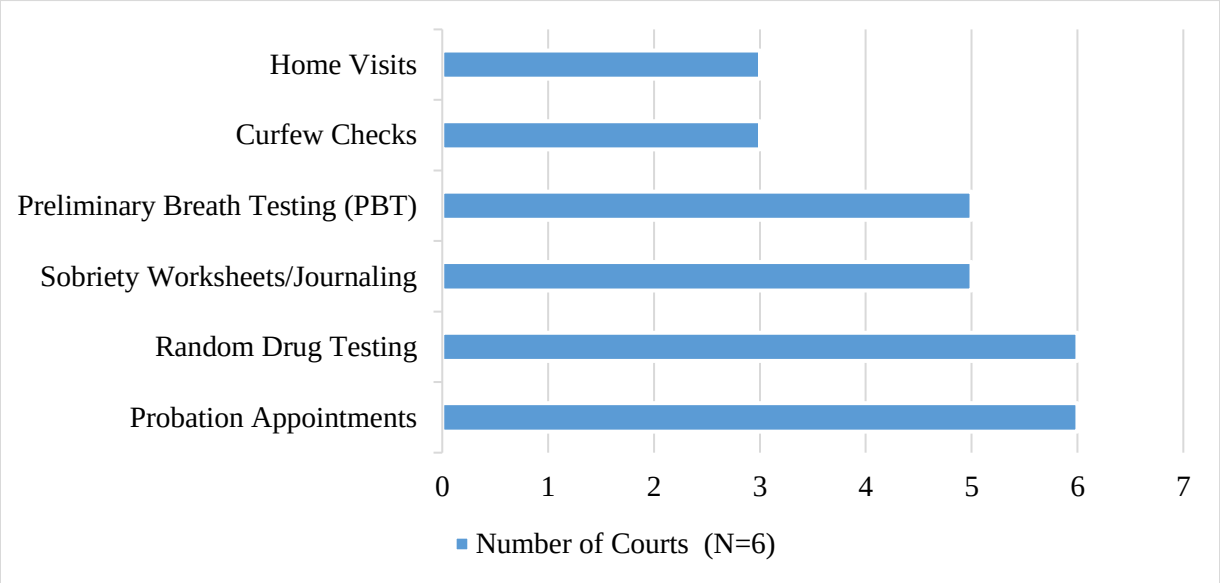
Programs incorporated into DUI court phases



The manners of accountability varied among the courts. However, all courts utilized probation appointments, random drug testing and required assignments, homework or projects such as relapse prevention worksheets and accountability journals (Figure 8).

Figure 8

Program Accountability Measures



Finding 3

The third finding from the data collection indicated that, courts utilize different court performance measures, with the most common being tracking recidivism rates, time to program completion, drug testing results, revocation rates, and client feedback. One common measure that was different among the courts was recidivism. One court defined recidivism as "new driving offenses during program or any time after graduation/termination if DUI/Physical Control", while another court defined recidivism as "any crime that is drug/alcohol-related, a mandatory probation violation according to the sentencing grid until jurisdiction would have customarily ended." A third court stated, "We'll pull data for certain things but without established definitions it doesn't mean much – like "recidivism." Who thought that would be so hard to define or compare?"

When asked if courts regularly evaluate their programs, two stated they do not. One only evaluates to accommodate grant requirements. Another wrote in a response to the follow-up

email when asked if they have defined performance measurements, “We’re in the infant stages of being better at tracking data.”

Finding 4

Another finding through the open-ended survey questions, interviews and follow-up questions resulted in a multitude of feedback and mutual areas of success and concern.

Strengths:

- “Acknowledging the successes (of clients) and having swift court responses for misses that are commensurate to the violation and to the participant’s length in the program.”
- “I have seen 4 graduations in my short time here. They are incredibly special events.”
- “Watching that mom achieve sobriety and her accountability with our program being a catalyst in getting her kids back!”
- “(I) am incredibly grateful for their (the team’s) experience and expertise.
- “Great team, small number of participants, individualized programs”
- “61% graduation rate”
- “To assist in removing barriers, the court has multiple grants that cover the costs of mandatory UAs, EHM and SCRAM. The court also has many resources such as gift cards, gas cards and bus passes. We also have a clothing closet available to all participants and hoping to grow it to more.”
- “Our graduates are our successes ☺”
- “38 graduates; 90% successful program completion”
- “Increasing community engagement and bringing awareness to DUI prevention”

- “We take a non-adversarial collaborative team approach to better the lives of our participants and increasing safety in the community.”

Weaknesses:

- “Lack of attendance by some key members of the team.”
- “Compliance with phase one requirements.”
- “Virtual hearings, can we please be back in person?!”
- “Lack of referrals and participants.”
- “Participants (not) attending mandatory UAs, not following up with PO (probation), and not a consistent team due to rotating positions.”
- “We have been struggling with enrolling new participants into the program.”
- “Lack of funding, (our funding authority) does not fund our therapeutic courts.”
- “They (treatment providers) are experiencing a severe staffing shortage, which is leading to a delay in our UA results.”
- “We currently do not have at-home visits. This seems like a critical component for the program and something we will continue to work on.”
- “We are losing buy-in from our prosecutors. They don’t have time to spend in our program anymore.”

Conclusions and Recommendations

Conclusion 1. Adopting state specific program standards promotes compliance with the DUI court model.

The literature review identified and defined *The Ten Guiding Principles for DWI Courts* (NCDC, n.d.) and how specific states have adopted standards within each principle to promote uniformity and best practices throughout their DUI courts. It has also been implied through the literature and accompanying state standards that "Following the 10 Guiding Principles demonstrates integrity for the DWI Court and expresses fidelity to the model that has been shown to work" (NCDC, n.d.). The *DWI Court Model Compliance Checklist* (NCDC, n.d.) relayed the expectations within each principle, but understood there could be limitations at the state or local levels due to outside factors including laws, budget, or policy. The review of the program standards in Minnesota, Nebraska and Georgia illustrated the clarity and expectations for the programs provided in their states.

The literature also showed that states with specific program standards had more measures for performance, clearly defined expectations of team members, and promoted participant and team member engagement. The state program standards reviewed in this paper showed a contrast to the responses from Washington State DUI courts on program standards, which were not uniform or consistent among the courts surveyed.

Recommendation 1. Adopt an administrative court rule on therapeutic courts, specifically DUI Courts.

Washington State has nine DUI court programs; however, no two have the same program standards. Each court, even though they are all courts of limited jurisdiction, operate independently (non-unified court system), but under their own interpretation of the guiding

principles and court rules. The adoption of an administrative court rule by AOC could establish parameters in which courts establish therapeutic courts and define key position roles, principles, terms and individual/team training required in accordance with the model and the state's goals, similar to AOC's implementation of ARLJ 11 defining "Misdemeanant Probation Departments" (AOC, 2001). The rule could broadly cover all therapeutic courts or there could be administrative orders that group like courts with similar models together for example Drug Courts and DUI Courts and separate rules for other programs such as community courts and mental health courts. A rule allows for judicial independence among the DUI Courts while still providing guidance and uniformity within the state as literature from other states has shown to be effective. Writing and establishing these standards could be accomplished by a joint effort between the professional organizations within courts of limited jurisdiction throughout Washington, as well as the AOC. A court rule could also establish minimum training requirements for teams. Team member understanding of DUI courts and training was also an area of growth in the feedback received. In Nebraska, not only was foundational training required for all team members required, but ongoing training tune up training, and cultural competence training as well. If Washington State implemented a similar training requirement, it could potentially reduce the number of individuals on a team that are undereducated in the model, their role, and the expectations with the state. Moreover, with appropriate, mandated training it may encourage additional courts to establish DUI courts.

Should this recommendation not be followed, DUI courts will continue to operate; however, there may be confusion among stakeholders in neighboring courts, inconsistency with the model, and potentially less desirable outcomes for participants.

Conclusion 2. Adopting uniform participant requirements and expectations creates consistency in sentencing and supervision of impaired driving offenders.

The survey showed that there was an array of different screening and eligibility criteria, phase structures, program lengths, and accountability measures throughout DUI courts in Washington. Currently those convicted of DUI or Physical Control (Appendices C & D) in Washington State are subject to minimum jail sanctions, ignition interlock requirements, treatment requirements, up to 60 months of court jurisdiction, mandatory conditions of probation and mandatory revocations. Whereas the survey showed that DUI program lengths varied from 12 months to 36 months.

Recommendation 2. Define program eligibility, phases and accountability measures on a statewide level.

For eligibility, all responding courts stated they only take high risk and high need individuals. However, how they determine risk and need varies by assessment used and timing of those screenings. If Washington State provided a validated risk, needs, responsivity assessment tool to all jurisdictions, there would be consistency in the RNR being done. Additionally, it would provide the opportunity for non-DUI courts to potentially have tools to begin their own program. Moreover, it would allow for better statewide measurements of DUI court participants and those who were not admitted into the programs as comparison groups for measuring performance. The timing of the RNR could also be defined in a statewide standard to better allow for tracking of potential participants, provide early intervention, and serve as a public safety measure. Likewise, the clinical assessment being done among all courts at the same interval could prioritize treatment earlier for better results throughout the program. The state of Georgia provided key timeframes that supports this standard.

A universal minimum program length would provide for consistency in time measurement and data collection such as graduation rates at 24 months, termination or revocation rates at 24 months or phase progression over the course of the program. Going further, a uniform minimum program length would also pair well with uniform phase structures. The survey showed that courts have a four or five phases plus aftercare in their program. If courts welcomed the idea of subjective phase structures, it could go further and provide definition of each phase, minimum requirements within the phase (affirmative conditions such as treatment, victim's panel, and driving restrictions), and minimum requirements to advance to the next phase (such as days of sobriety and compliance). Courts could still have the discretion to add other criteria to each phase based upon what is available in their area, specific needs of their clients, or to enhance overall programming. This could provide clarity to stakeholders such as funding authorities, AOC, and WTSC as they would understand the objective for all programs within the state and not have to refer to objectives by jurisdiction.

Conclusion 3: Washington DUI courts do not have clear and consistent definition of key terms.

The survey feedback, interview, as well as literature produced a slew of definitions for the term "recidivism". During the survey and interviews, it was also evident that respondents did not have a clear understanding of terms program/operational standards, performance measures, or outcome evaluations as clarification and examples were necessary in the follow-up email. In the other state standards reviewed as well as the performance evaluations of other courts throughout the country, each publication clearly defined terms being used so it left no question on what they meant by the terms.

Recommendation 3: Washington State Administrative Office of the Courts should define commonly used therapeutic court terms.

It is imperative that courts understand the terminology before them. Making an educated guess or basing a definition off of an assumption can be problematic. Courts are arenas of consistency, impartiality, and integrity, but if the courts throughout Washington cannot define or explain terms in a similar way to another court, it puts the above tenets into question. Providing definitions for terms such as recidivism and performance measures allows for consistent messaging amongst the courts and garners trust with stakeholders, including the general public. The court must not only define key terms, but also be transparent as to why it they were defined as such. Having consistent meaning is also beneficial to data collection, analysis, and dissemination of the results. If action is not taken by the AOC, courts will continue to make their own definitions and not have a clear message statewide.

Conclusion 4: Most Washington DUI courts do not have regular data collection and reporting practices or requirements.

After reviewing evaluation reports and performance measurements of courts throughout the United States, it was apparent many of the courts do routine check-ins, annual evaluations, and periodic outcome evaluations. These measurements serve as an opportunity for courts to identify strengths, weaknesses, areas of improvement and success, meet budgetary goals, program standards, and monitor fidelity to the model. It is clear from the survey responses and feedback that courts in Washington struggle with data collection and measurement. All the literature supports data collection as a best practice that promotes sustainability, stakeholder buy-in, and better client outcomes. The survey reflected that current DUI court programs are measuring different data with different standards. The way each court measures performance

vastly differs as well. Some courts do not have performance measures, some measure graduation and termination rates, and most measure recidivism. As seen in the literature review, when states have clear expectations of what data they are collected, who is being analyzed, where the data is coming from, when or how often they should be collected, how to collect the data and why they are doing it; it provides for advantageous outcomes. The surveys and interviews indicated that some courts were only collecting the data required of them by a funding source, but would it not be beneficial to collect data for transparency to the public as well? Uniform data requirements are a necessity for accurate reporting and program sustainability

Recommendation 4: Washington State AOC should implement annual performance measurement reporting for DUI courts.

By reporting a set standard of data annually, AOC could have additional information on advantages and barriers programs are facing. Additionally, annual performance reporting could aid in the budgetary process and set benchmarks for courts to achieve. WTSC, for example, could benefit from the information in an annual report of all DUI courts by knowing how many individuals were served, recidivism rates, and program innovations. Implementing performance measurement reporting does not need to be difficult, as many states have already demonstrated. Washington could easily borrow from Georgia's reporting standard:

> Courts shall collect, at a minimum, a mandatory set of performance measures determined by CACJ. The minimum performance measures to be collected shall include: recidivism (re-arrests and reconvictions), number of moderate-and high-risk participants, drug testing results, drug testing failures (including substances), number of days of continuous sobriety, units of service (e.g. number of court sessions, number of treatment sessions attended), employment, successful participant completion of the program (graduations),

and unsuccessful participant completion of the program (e.g. terminations, administrative discharges). The court should develop a process to collect recidivism data following participant graduation (CACJ, 2022, 8).

It was evident through the research that, courts in Washington have areas of success, but also areas of weakness. If a governing agency could forge relationships between the other DUI courts, AOC, and other stakeholders as the result of an annual survey all involved would benefit. AOC, WTSC, or another judicial organization could create and oversee the creation and implementation of performance measures and surveys as suggested for the statewide program standards. Failure to implement performance measures statewide will perpetuate the lack of information from some courts, the inability to do accurate comparisons, and lack transparency with the public and stakeholders.

Concluding Remarks

To conclude, Washington State DUI courts would benefit from a succinct set of program standards, performance measures, and term definitions. Next steps could include meeting with all DUI court coordinators, the Administrative Office of the Courts, Washington Traffic Safety Commission, and other interested stakeholders for a roundtable meeting to address these areas and determine if there is a want and need. Additionally, through this meeting the formation of a committee to develop and implement some or all of these recommendations. These recommendations are the beginning of a larger conversation on DUI courts in Washington. After any recommendation is put into place ongoing research and analysis is necessary. When the time comes, research into the effectiveness of DUI courts in Washington State could be beneficial including but not limited to recidivism rates (with defined parameters), cost savings per defendant, and participant satisfaction with their programming.

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Appendix A

The Ten Key Components of Drug Courts

Key Component #1: Drug courts integrate alcohol and other drug treatment services with justice system case processing

Key Component #2: Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights

Key Component #3: Eligible participants are identified early and promptly placed in the drug court program

Key Component #4: Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services

Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing

Key Component #6: A coordinated strategy governs drug court responses to participants' compliance

Key Component #7: Ongoing judicial interaction with each drug court participant is essential

Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness

Key Component #9: Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations

Key Component #10: Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness

Appendix B

The Ten Guiding Principles of DWI Courts

Guiding Principle 1: Determine the Population

Targeting is the process of identifying a subset of the DWI offender population for inclusion in the DWI Court program. This is a complex task given that DWI Courts, in comparison to traditional Drug Court programs, accept only one type of offender, the person who drives while under the influence of alcohol or drugs. The DWI Court target population, therefore, must be clearly defined, with eligibility criteria clearly documented.

Guiding Principle 2: Perform a Clinical Assessment

A clinically competent objective assessment of the impaired-driving offender must address a number of bio-psychosocial domains including alcohol use severity and drug involvement, the level of needed care, medical and mental health status, extent of social support systems, and individual motivation to change. Without clearly identifying a client's needs, strengths, and resources along each of these important bio-psychosocial domains, the clinician will have considerable difficulty in developing a clinically sound treatment plan.

Guiding Principle 3: Develop the Treatment Plan

Substance dependence is a chronic, relapsing condition that can be effectively treated with the right type and length of treatment regimen. In addition to having a substance abuse problem, a significant proportion of the DWI population also suffers from a variety of co-occurring mental health disorders. Therefore, DWI Courts must carefully select and

implement treatment practices demonstrated through research to be effective with the hard-core impaired driver to ensure long-term success.

Guiding Principle 4: Supervise the Offender

Driving while impaired presents a significant danger to the public. Increased supervision and monitoring by the court, probation department, and treatment provider must occur as part of a coordinated strategy to intervene with the repeat and high-risk DWI offenders and to protect against future impaired driving.

Guiding Principle 5: Forge Agency, Organization, and Community Partnerships

Partnerships are an essential component of the DWI Court model as they enhance credibility, bolster support, and broaden available resources. Because the DWI Court model is built on and dependent upon a strong team approach, both within the court and beyond, the court should solicit the cooperation of other agencies, as well as community organizations to form a partnership in support of the goals of the DWI Court program.

Guiding Principle 6: Take a Judicial Leadership Role

Judges are a vital part of the DWI Court team. As leader of the team, the judge's role is paramount to the success of the DWI Court program. The judge must also possess recognizable leadership skills as well as the capacity to motivate team members and elicit buy in from various stakeholders. The selection of the judge to lead the DWI Court team, therefore, is of utmost importance.

Guiding Principle 7: Develop Case Management Strategies

Case management, the series of inter-related functions that provides for coordinated team strategy and seamless collaboration across the treatment and justice systems, is essential for an integrated and effective DWI Court program.

Guiding Principle 8: Address Transportation Issues

Because nearly every state revokes or suspends a person's driving license upon conviction for an impaired driving offense, the loss of driving privileges poses a significant issue for those individuals in DWI Court programs. In many cases, the participant solves the transportation problem created by the loss of their driver's license by driving anyway and taking a chance that he or she will not be caught. With this knowledge, the court must caution the participants against taking such chances in the future and to alter their attitude about driving without a license.

Guiding Principle 9: Evaluate the Program

To convince stakeholders about the power and efficacy of DWI Court, program planners must design a DWI Court evaluation capable of documenting behavioral change and linking that change to the program's existence. A credible evaluation is often the only mechanism for mapping the road to program success or failure. To prove whether a program is efficient and effective requires the assistance of a competent evaluator, an understanding of and control over the relevant variables that can systematically contribute to behavioral change, and a commitment from the DWI Court team to rigorously abide by the rules of the evaluation design.

Guiding Principle 10: Ensure a Sustainable Program

The foundation for sustainability is laid, to a considerable degree, by careful and strategic planning. Such planning includes considerations of structure and scale, organization and participation and, of course, funding. Becoming an integral and proven approach to the DWI problem in the community however is the ultimate key to sustainability

Appendix C

Revised Code of Washington 46.61.502

Driving under the influence

(1) A person is guilty of driving while under the influence of intoxicating liquor, cannabis, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW **46.61.506**; or

(b) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW **46.61.506**; or

(c) While the person is under the influence of or affected by intoxicating liquor, cannabis, or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor, cannabis, and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3)(a) It is an affirmative defense to a violation of subsection (1) (a) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1) (b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of cannabis after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by cannabis in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class B felony punishable under chapter **9.94A** RCW, or chapter **13.40** RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ten years as defined in RCW **46.61.5055**; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW **46.61.520**(1) (a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW **46.61.522**(1) (b);

(iii) An out-of-state offense comparable to the offense specified in (b) (i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW **46.61.504**(6).

Appendix D

Revised Code of Washington 46.61.504

Physical control of vehicle while under the influence

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW **46.61.506**; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW **46.61.506**; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section and it is an affirmative defense to any action pursuant to RCW **46.20.308** to suspend, revoke, or deny the privilege to drive if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3)(a) It is an affirmative defense to a violation of subsection (1) (a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1) (b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of cannabis after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of

subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by cannabis in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter **9.94A** RCW, or chapter **13.40** RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ten years as defined in RCW **46.61.5055**; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW **46.61.520**(1) (a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW **46.61.522**(1) (b);

(iii) An out-of-state offense comparable to the offense specified in (b) (i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW **46.61.502**(6).

Appendix E

DUI Sentencing Grid

Court DUI Sentencing Grid (RCW 46.61.5055 as amended by statute effective Jan. 1, 2022.)

BAC Result < .15 or No Test Result	***No Prior Offense*[1]**	***One Prior Offense*[1]**	***Two Prior Offenses*[1]**
Mandatory Minimum/ Maximum Jail Time[2]	24 Consecutive Hours/364 Days	30/364 Days	90/364 Days
Each Passenger Under Age 16, Mandatory Jail	Additional 24 Hours Consecutive	Additional 5 Days Consecutive	Additional 10 Days Consecutive
EHM or Jail Alternative[2]	15 Days in Lieu of Jail	60 Days Mandatory	120 Days Mandatory/8 Days Jail Min.
Alternative to Mandatory Jail + EHM	N/A	180 Days EHM[2] or 120 days of 24/7 sobriety program monitoring	360 Days EHM[2] or 360 days of 24/7 sobriety program monitoring
Mandatory Minimum/ Maximum Fine[3]***	$990.50/$5,000	$1,245.50/$5,000	$2,095.50/$5,000
If Passenger Under Age 16, Minimum/ Maximum Range[4]***	$1,000/$1,000-$5,000 + assessments	$1,000/$2,000-$5,000 + assessments	$1,000/$3,000-$10,000 + assessments
Driver's License**	90-Day Suspension[5]	2-Year Revocation[5]	3-Year Revocation
Each Passenger Under Age 16, II Device	Additional 12 Months	Additional 12 Months	Additional 12 Months
24/7 Sobriety Program[2]	If available	If available	If available
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered
Expanded Substance Use Disorder Assessment/Treatment	N/A	Mandatory/treatment if appropriate	Mandatory/treatment if appropriate
II Device	DOL imposed in all cases.		
BAC Result ≥ .15 or Test Refusal	***No Prior Offense*[1]**	***One Prior Offense*[1]**	***Two Prior Offenses*[1]**
Mandatory Minimum/ Maximum Jail Time[2]	48 Consecutive Hours/364 Days	45/364 Days	120/364 Days
Each Passenger Under Age 16, Mandatory Jail	Additional 24 Hours Consecutive	Additional 5 Days Consecutive	Additional 10 Days Consecutive

EHM or Jail Alternative[2]	30 Days in Lieu of Jail	90 Days Mandatory	150 Days Mandatory/10 Days Jail Min.
Alternative to Mandatory Jail + EHM	N/A	6 Months EHM[2] or 120 days of 24/7 sobriety program monitoring	360 days EHM[2] or 360 days of 24/7 sobriety program monitoring
Mandatory Minimum/ Maximum Fine[3]***	$1,245.50/$5,000	$1,670.50/$5,000	$2,945.50/$5,000
If Passenger Under Age 16, Minimum/ Maximum Range[4]***	$1,000/$1,000-$5,000 + assessments	$1,000/$2,000-$5,000 + assessments	$1,000/$3,000-$10,000 + assessments
Driver's License**	1-Year Revocation[5] 2 Years if BAC refused	900-Days Revocation 3 Years if BAC refused	4-Year Revocation
Each Passenger Under Age 16, II Device	Additional 18 Months	Additional 18 Months	Additional 18 Months
24/7 Sobriety Program[2]	If available	If available	If available
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered
Expanded Substance Use Disorder Assessment/Treatment	N/A	Mandatory/treatment if appropriate	Mandatory/treatment if appropriate

* See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 5.

** Driver's license minimum suspension/revocation. See note 5 for exceptions. DOL may impose more.

*** Mandatory Minimum fines may be reduced, waived, or suspended if defendant is indigent, as provided by law.

Appendix F

Survey of Washington State DUI Courts

This is a survey for all DUI Courts within Courts of Limited Jurisdiction. This survey is being used as part of an Institute for Court Management Fellows Project on DUI Courts in Washington State. Thank you for taking the time to participate in this survey.

* Indicates required question

1. Jurisdiction *

2. Year court was established

3. Is your program pre-adjudication or post-adjudication *

Pre-adjudication Post-adjudication Both

4. Is your program an opt-in program or a mandatory program? *

- Opt-in
- Mandatory

5. Number of people your Court has served since inception (include current participants, those who have left-graduates, revoked from program, left for other reasons), do not include those that were only screened for admittance.

6. The following people are regularly part of DUI Court Staffings/Hearings: *

Judge	Specific Court Clerk

Prosecuting Attorney	Public Defender
Members of Private Defense Bar	Court Coordinator
Case Manager	Probation Officer (or equivalent)
Law Enforcement	Treatment
Other	

7. Did your DUI Court attend Foundational Training through National Center for DWI Courts? *

- Yes
- No
- Other:

8. Are there members of your current DUI Court team that have not been through training? *

- Yes
- No

9. Would you say that your DUI Court team members are familiar with "The Ten Guiding Principles of DWI Courts"?

- Yes
- No
- Some
- Other:

10. Do your team members have specialized training in: (Select all that apply) *

Emotional Intelligence	Motivational Interviewing
Trauma Informed Care	Sequential Intercept Model
CBT/MRT programs	Drug Recognition
Other	

11. When are potential participants screened for DUI Court? *

Initial Screening at arraignment	Screening during pre-trial phase
Screening at or after sentencing	Other

12. What qualifies someone to be in your DUI Court Program? (High risk, high needs, both, other?) *

13. Does your DUI Court take (select all that apply): *

First Time Offenders	Offenders with one prior
Offenders with 2 or more priors	Revoked Deferred Prosecution
Other	

14. Does your court have established eligibility criteria? *

- Yes
- No
- Some/Partial

15. How many phases is your DUI Court program? *

16. What is the minimum length of your program? *

17. What are the participant incentives for completing DUI Court? *

18. When is a Risk assessment conducted on participants? *

Prior to entering the program	During Intake
During Phase 1	Other

19. When is a Needs assessment conducted on participants? *

Prior to entering the program	During Intake
During Phase 1	Other

20. What risk/needs assessment(s) does your DUI Court use?

21. When is a Substance Use Disorder Evaluation/Co-Occurring Disorders Evaluation required of your participants? *

Prior to entering the program	During Intake
During Phase 1	Other

22. When are participants required to engage in treatment? *

Prior to entering the program	During Intake
During Phase 1	Other

23. Does your DUI Court incorporate any other programs? (Select all that apply)

Moral Reconation Therapy	Thinking for a Change
Cognitive Behavioral Therapy	Psychotherapy
Medication Assisted Treatment	Aftercare/Graduate Programs
Sober Support Meetings/Group Activities	Other

24. Who oversees/supervises compliance with DUI Court requirements? (Select all that apply) *

Probaation Staff	Case Manager
Law Enforcement	Treatment Provider
Other	

25. Does your DUI Court utilize: (Select all that apply) *

Appointments w/probation	Preliminary Breath Tests (PBT)
Random Drug Testing (Immunoassay)	Random Drug Testing (Instant result)
Random Drug Testing (Confirmed result)	Curfew Checks
Home Visits	Assignments/Homework/Projects
Other	

26. Who are your community partners?

27. Do you have a specific judge that handles all DUI Court hearings? *

- Yes
- No
- Other:

28. Are DUI Court team member roles specifically outlined? *

- Yes, they are written within a policy, procedure or handbook.
- No, they are not specifically outlined in writing.
- Other:

29. Does your DUI Court regularly assist with transportation issues? (Select all that apply)

Our team assists with relicensing	Bus Passes or other public transportation vouchers
Ride share services	Other

30. Does your court regularly evaluate your program? If yes, what measures do you use to evaluate your program? *

31. Does your program track: (Select all that apply) *

Recidivism rates	Time to program completion
Average number of prior related offense (DUI, Physical Control, or Reductions)	Positive drug tests v. negative drug tests
Time to program completion	Other

32. Does your court receive: (Select all that apply)

Local grants	State grants (AOC, WTSC, etc.)
Federal Grants (BJA, SAMSHA, etc.)	Other

33. Is financial sustainability a concern of your court?

- Yes
- No
- Sometimes

34. What are your program's successes?

35. What are your program's challenges?

36. Is there anything that you would like to share about your program?

37. Would you be willing to provide any of the following: (Select all that apply)

Participant Handbook	Team Policy and Procedure Manual
Client Forms	Brief follow-up via phone
Brief follow-up via Zoom	Brief follow-up via email
Site Visit	Other

Appendix G

Interview Questions

What is your role on your DUI Court Team?

Do you feel your role is clearly defined?

Have you been trained in the 10 Guiding Principles of DWI Courts? Any other trainings?

What works well in your program? What successes has your program seen?

What could use improvement?

What are barriers your program is facing?

How does your program measure success?

How does your program measure recidivism?

What areas could your program use additional support?

Appendix H

Written Follow-Up Questions

1) Do any of you have Performance Measurements for your courts defined? For example: a category or measure (retention, recidivism) to ensure your programs are accomplishing objectives, providing feedback etc. If so, what are those categories and do you have a time frame you utilize when looking at said categories?

2) Do you have a Program Evaluation for your DUI Court? A survey that you have clients, team members and stakeholders complete to measure their thoughts and perceptions of the program? If so, when are these evaluations completed.